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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,874	03/17/2001	Chuck Peters	1760.2.29	7470
23484	7590	11/10/2004	EXAMINER	
JOHN W. L. OGILVIE 1320 EAST LAIRD AVENUE SALT LAKE CITY, UT 84105			CAO, CHUN	
			ART UNIT	PAPER NUMBER
			2115	

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/810,874

Applicant(s)

PETERS ET AL.

Examiner

Chun Cao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-26 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 11 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. Claims 1-30 are presented for examination.
2. The text of those applicable section of Title 35, U.S. Code not included in this action can be found in the prior Office Action.

#### ***Priority***

3. Receipt is acknowledged of papers filed based on amendment filed on 4/28/04. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application upon which priority is claimed fails to compile with the requirements, since the oath, declaration or application data sheet does not acknowledge the filing of any provisional application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 6-9, 12, 15-19, 21-25 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Brian K. Percy (Percy), " Re: .pst file in Outlook".

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Pearcy is a prior art reference cited in prior office action.

As per claim 1, Percy teaches a method for coordinating imaging operation with user profile migration to perform migration in place on a computer system, the method comprising the steps of:

providing a migration content storage [another partition] in the computer system to hold migration content, by using a partition manipulation tool [such as, "partition magic" a well known software in the art] to manipulate at least one partition in a partitionable storage medium of the computer system [see the article all];

saving migration content into the provided migration content storage by using the migration tool [emphasis added, "an user used copy and paste function"], the saved migration content including at least user settings [outlook express, etc.] for the computer system [see the article all];

deploying an image into at least one other partition of the computer system's storage by using an image tool, thereby forming a newly imaged partition [C: partition] which is not the migration content storage [page 1, from the bottom lines 2-6]; and

restoring migration content from the migration content storage into the newly imaged partition by using the migration tool [see the article all].

In summary, first, Percy teaches of using a partition manipulation tool [such as, "partition magic" a well known software in the art] to manipulate at least one partitions beforehand in the computer system. Second, Percy teaches of saving [an user used copy and paste function] the user settings [outlook express,

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etc.] to another partition in a partitionable storage medium. Third, Pearcy teaches of deploying an image and restoring user setting into the newly imaged partition [C; partition; see the article all].

As to claims 3 and 6, inherently, Pearcy teaches of rebooting the computer system, and the reboot causes execution of commands that including an invocation of the imaging tool during the deploy step and restoring step [see article all, emphasis added, "re-install windows using Drive Image 2.0"].

As per claim 7, inherently, Pearcy teaches that the invocation of the migration tool results from an entry in an operating system registry [see article all].

As to claims 8 and 9, inherently, Pearcy teaches of providing migration content storage partition comprises determining whether the computer system's partitionable storage has an extended partition [emphasis added "before an user can backup the user setting to an extended partition, the user can determine whether the computer system's partitionable storage has the extended partition (another partition)"].

As per claim 12, Pearcy teaches of deploying an image of an operating system which was not installed on the computer system [page 1, from the bottom lines 2-6].

As to claims 15-18, Pearcy teaches the claimed method of steps. Therefore, Pearcy teaches the claimed system to carry out the method of steps.

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As to claims 19, 21-25 and 28, Percy teaches the claimed method of steps. Therefore, Percy teaches the claimed computer-readable storage media to carry out the method of steps.

6. Claims 4, 5, 13, 14, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brian K. Percy (Percy), "Re: .pst file in Outlook".

As to claims 4 and 5, Official Notice is taken that a bootable removable storage medium (such as a bootable CD-Rom) and a network boot image are old and well known in the computer art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include a bootable CD-Rom and a network boot image because these would provide easier and quicker image restoration to recover from computer system failure. Inherently, Percy may teach of making a restore drive image as a bootable removable storage medium or a network boot image.

As to claims 13 and 29, Official Notice is taken that deploy an upgraded operating system to the computer system is old and well known in the computer art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include an upgraded operating system because this would improve the system performance by providing a better operating system.

As to claims 14 and 30, Official Notice is taken that roll the image back to an earlier state is old and well known in the computer art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include a rollback image because this would provide easier and quicker image

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restoration to recover from computer system failure. Inherently, Percy may teach of a rollback image installation in C: partition [see the article all].

7. Claims 2 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brian K. Percy (Percy), "Re: .pst file in Outlook" in view of McCall (McCall), US patent no. 6,658,435.

McCall is prior art cited in prior office action.

As to claims 2 and 20, Percy does not teach of deleting at least one file from the partitionable storage medium of the computer system to make additional room for migration content.

However, McCall teaches of deleting at least one file from the partitionable storage medium of the computer system to make additional room for migration content [col. 2, lines 50-55; col. 5, lines 21-28].

It would have been obvious to one of ordinary skill in the art at time the invention to combine the teachings of Percy and McCall because the specific teachings of McCall stated above would improve reliability and flexibility of Percy system by allowing file deletion that gives the extra space for migration content.

8. Claims 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brian K. Percy (Percy), "Re: .pst file in Outlook" in view of Murray et al. (Murray), US patent no. 6,330,653.

Murray is prior art cited in prior office action.

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As to claims 10 and 26, Percy does not teach of shrink a partition to provide storage space for use in the migration content storage partition.

However, Murray teaches of shrink a partition to provide storage space for use in the migration content storage partition [col. 4, line 64-col. 5, line 1].

It would have been obvious to one of ordinary skill in the art at time the invention to combine the teachings of Percy and Murray because the specify teachings of Murray stated above would improve reliability and flexibility of Percy system by allowing to shrink the partition depending on space requirement in Percy system.

#### ***Allowable Subject Matter***

9. Claims 11 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Applicant's arguments filed on 8/17/2004 have been fully considered but are moot in view of new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun Cao whose telephone number is 571-272-3664. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The



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fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chun Cao

Nov. 3, 2004